

1 but over the years its administration and litigation  
2 risks have made it appear so. This concern was another  
3 reason for the passage of H.B. 191. Prior to the  
4 passage of H.B. 191, over the years the ACMP had become  
5 a cumbersome complex process that hindered timely  
6 issuance of permits. In order for the state agencies  
7 to carry out their duties under the ACMP, rather than  
8 being able to rely on regulations published under state  
9 law and with public comment, they had to rely on a  
10 series of more and more complex interagency memos that  
11 were not open to the public. The state standards  
12 duplicated federal and state law and many district  
13 policies duplicated the requirements of both state  
14 policies and certain federal and state regulatory  
15 programs. This overlap led to confusion and compliance  
16 complexity, particularly on the state side. The  
17 permitting schedule under ACMP has become the victim of  
18 the slowest permit.

19           AOGA supported H.B. 191 because it  
20 simplified the ACMP process. Most importantly, it  
21 recognized the significant evolution of environmental  
22 protection provided by federal and state regulatory  
23 programs since the inception of the ACMP. We all need  
24 to remind ourselves that ACMP does not stand alone. It  
25 is not the sole protection for coastal resources in

1 this state. It is a program that marries the already  
2 in-place state, local and federal environmental  
3 concerns. And in this state in particular, the  
4 legislature and the federal agencies and the local  
5 governments spend a good deal of time taking a look at  
6 coastal resources and making sure they are protected.  
7 In particular, it made ADEC permits and authorizations  
8 automatically consistent upon issuance. These permits  
9 are (sic) no longer hold up the ACMP review or dictate  
10 its schedule.

11 In addition to H.B. 191 and the new  
12 ACMP regulations, which are the subject of OCRM's EIS,  
13 the state also implemented significant reforms with  
14 respect to ACMP management and the coordination of  
15 project permitting through the creation of the Office  
16 of Project Management and Permitting in the Department  
17 of Natural Resources. these permit streamlining  
18 reforms fully conform to the coastal management  
19 regulations specified in 15 CFR Part 923 Subpart E,  
20 such as clearly defined organizational structure and a  
21 single agency designated to manage the program.

22 The other significant reform provided  
23 by H.B. 191 was to require districts to revise their  
24 coastal program policies so that they did not duplicate  
25 federal or state laws and regulations unless these

1 policies relate to a matter of local concern. This  
2 appropriately refocused the scope of district  
3 enforceable policies. The definition of a matter of  
4 local concern is a specific coastal use or resource  
5 within a defined portion of a district's coastal zone,  
6 that is first demonstrated as sensitive to the  
7 environment, second, not adequately addressed by state  
8 or federal law, and, third, of unique concern to the  
9 coastal district as demonstrated by local usage or  
10 scientific evidence. This important refocus allows  
11 coastal districts to focus on local matters in a  
12 regulatory arena that is already comprehensive and  
13 complex. AOGA understands the state has made a major  
14 effort to assist districts in crafting policies that  
15 meet the requirements of H.B. 191 and the new ACMP  
16 regulations and the districts have secured through  
17 legislation an extension to revise their plans, which  
18 AOGA supported.

19                   AOGA's support of the permit  
20 streamlining and permit management benefits of the ACMP  
21 does not mean that our members' commitment to  
22 environmentally responsible development and full  
23 consultation with those affected by our activities has  
24 changed. This regulatory reform focus appears to have  
25 been lost in the debate over the ACMP amendments. The

1 role of coastal districts in the permitting process is  
2 unchanged. Permits cannot be issued without an  
3 affirmative consistency finding. Further, with the  
4 exception of ADEC's regulatory authorities, coastal  
5 district management programs may still designate areas  
6 of specific use or resource values and develop  
7 enforceable policies to address those uses and  
8 resources.

9                   We understand that the purpose of this  
10 comment opportunity to assist OCRM in its determination  
11 of what needs to be addressed in the EIS. For the  
12 reasons mentioned in my testimony, we believe that the  
13 only change in the status quo that will result from the  
14 ACMP amendments will be a better functioning permit  
15 system. If this improved process results in any on-  
16 the-ground impacts, it will have everything to do with  
17 a more efficient permitting system and nothing to do  
18 with the alteration of any environmental standards.

19                   Thank you for the opportunity to  
20 comment. And I'll have two -- I have copies for  
21 whoever would like them. Thank you.

22                   MS. OKASAKI: Yes, we'd like a copy.  
23 Thank you, Judy. Next would be Marv Smith.

24                   MR. SMITH: Thank you for the  
25 opportunity to comment today. My comments are not





1                   We feel that we're -- the local control  
2   that House Bill 191 was supposed to implement is not  
3   there, and we want to write policies that are  
4   meaningful.

5                   The biggest concern we have is the  
6   freshwater lakes of the state. We have -- do not have  
7   the same protection that we had before under our  
8   policies. It's just not there, and it's going to be  
9   difficult. And we're trying to write policies,  
10   specifically on Lake Iliamna, under the new guidelines,  
11   but we're at the state's mercy whether or not they  
12   approve those policies or not. And we don't know  
13   whether they'll approve them or not.

14                  We're doing the EIS before we get those  
15   policies finalized, you know, and so the cart's in  
16   front of the horse. And we feel that the time frame  
17   for this to get it done is just very detrimental to us  
18   to try to make sure that everything is protected.

19                  And we strongly encourage this EIS when  
20   you evaluate it to look at the impacts of the changes  
21   to how it's doing subsistence -- how subsistence is  
22   being effected. That really needs to be looked at. I  
23   strongly urge that.

24                  In addition, we urge you look at how  
25   the habitats, the habitat standards are written. Those

1 standards are changed dramatically from what they were.  
2 Under the new standards, mining is removed from coastal  
3 management. Energy facilities. And we feel that the  
4 evaluation of those needs to be looked at tremendously.

5                   In addition, reduced local control.  
6 The local control we had there before, you know, that  
7 alone is the key thing of the Coastal Management  
8 Program. It was implemented from the people, the  
9 citizens of Alaska, in the districts, and we make the  
10 coastal zone of Alaska work, from the grounds up at the  
11 local level. Without that, the program has no merit.  
12 And that is the key to this. And we strongly urge the  
13 EIS to look at that and how it is.

14                   Air, land and water quality issues have  
15 been taken out, and we do not feel that that, in the  
16 way it's done -- how can you do an evaluation of  
17 coastal management and not include air, land and water  
18 quality in that? It's almost impossible.

19                   Those are the things that we strongly  
20 urge that the EIS review, and the cumulative impacts of  
21 those and how they're affecting.

22                   There's some strong definition changes  
23 in the new regulations that have taken away many things  
24 that no longer were there. And we'd urge you to look  
25 at those definitions of how they are explained, and how

1 they affect the overall impact later on. I'll have a  
2 final written copy to be turned in by August the 5th  
3 from the borough, and thank you.

4 MS. OKASAKI: Thank you, Mr. Smith,  
5 (indiscernible, away from microphone). Tom.

6 MR. LOHMAN: Thank you. Doesn't Marv  
7 look good sitting in the front of a room? Sense of  
8 security.

9 My name is Tom Lohman. I'm with the  
10 North Slope Borough. It's a privilege to be here again  
11 and talk about the ACMP, something very important to  
12 the North Slope. I believe you heard from our mayor in  
13 Barrow on Monday, who had to come in from his  
14 subsistence camp to participate in this process. And  
15 that alone should be an indication of how significant  
16 subsistence is to the folks on the North Slope, but  
17 also how important this program is that the mayor would  
18 leave his subsistence camp where he was gathering food  
19 for his family and relatives, and come in and talk  
20 about this.

21 First, let me say I hope you understand  
22 how insane your schedule is. You went over that very  
23 quickly, and some of us were chuckling, but that was  
24 only to keep from crying I suppose. Three weeks to  
25 draft a draft EIS is simply ridiculous, and I know it's

1 not your fault, but just make a note of that.

2                   The EIS process is all about impacts.

3 First, whether additional impacts to the physical,  
4 biological, or human environment will result from the  
5 state's amendment to the program, and second what and  
6 how significant those impacts will be.

7                   The answer to the first question, of  
8 course, is, yes, there will be additional impacts to  
9 the environment. That essentially was the intended  
10 result of the administration when it began this  
11 process. It was intended that the changes to the  
12 program would allow for more development within and  
13 adjacent to the state's coastal zone, and that the  
14 development would occur faster with fewer regulatory  
15 hurdles to overcome and with a drastically reduced  
16 ability of local communities to reject or shape that  
17 development.

18                  There's no such thing as impact-free  
19 development. The state wants more development in the  
20 coastal zone and has amended the ACMP to allow that  
21 development to occur. There will be more impacts to  
22 the resources and the competing uses of the coastal  
23 zone as a result of this amendment.

24                  Will these additional impacts be  
25 significant and harmful? Yes, they will be. They will

1 certainly be above and beyond the level that local  
2 districts and the communities we represent want and  
3 think is appropriate. I know that, because despite the  
4 rhetoric and unsupported claims of a program out of  
5 control, the old ACMP was working. In most of, if not  
6 all of coastal areas, including the North Slope, the  
7 old ACMP was a critical tool in approaching an  
8 appropriate if delicate balance between industrial  
9 development and competing uses and values.

10               That is not to say that irreversible  
11 industrial impacts have not already occurred in some  
12 regions, including the North Slope. This EIS must  
13 incorporate the findings of the 2003 National Research  
14 Council report on the cumulative effects of oil and gas  
15 activities on the North Slope of Alaska. Among other  
16 findings, the researchers found that piecemeal  
17 development and permitting had resulted in significant  
18 social and cultural impacts to our largely Inupiat  
19 population, and regulatory structures should be  
20 strengthened to prevent further impacts.

21               The wholesale changes embodied in the  
22 proposed ACMP amendment, however, take the program in  
23 the opposite direction. They will, and I again stress  
24 are intended to, upset whatever semblance of balance we  
25 had to an unbalanced state favoring development.

1                   Let's talk about specifically some  
2 issues that should be analyzed in the EIS. First,  
3 social and cultural stresses. Our mayor has talked  
4 frequently about the idea that stresses are occurring  
5 in our communities, and those are causing all kinds of  
6 cultural ills that plague our small rural communities.  
7 The changes to the ACMP, and especially the drastically  
8 reduced local role in management of coastal  
9 development, will increase the sense of  
10 disenfranchisement and powerlessness of many coastal  
11 residents who have already experienced significant  
12 disruption of traditional lifestyles and livelihoods.  
13 This is not an insignificant impact, and is being felt  
14 in our communities. When we talk about the changes to  
15 this program in our communities where they are  
16 knowledgeable of this program, people are already very  
17 upset. They've been upset for two years and they're  
18 going to be more upset when they see what our final  
19 revised district plan looks like.

20                   Let's talk about traditional knowledge.  
21 By removing the local component of the program, the  
22 state is turning its back on the wealth of traditional  
23 knowledge that exists among the residents, and  
24 particularly the native residents of Alaska's hundreds  
25 of coastal communities. Traditional and contemporary

1 local Inupiat knowledge of the North Slope environment,  
2 including offshore areas used for subsistence, is drawn  
3 from both the experiences of elders and from ancestors  
4 and current residents who travel through the region.  
5 The ability to safely utilize these areas today and to  
6 survive as a culture depends on the attention to and  
7 respect for this traditional knowledge. By removing  
8 the consultative component of this program, the part  
9 that worked best when industry came to the North Slope  
10 in advance of developing activities and exploration  
11 activities, because they knew we had a coastal  
12 management program with strong local components. That  
13 part is now gone, the part that gets them to our table,  
14 to our table, not to this mysterious the table that  
15 everybody talks about, including the state and  
16 everybody else.

17                   We had a forum in Barrow where people  
18 would come to Barrow and to our communities and talk to  
19 us about programs, because we had a coastal management  
20 program with local enforceable polities. And that's  
21 what gets lost in the statistics, the idea that things  
22 got worked out beforehand, because the local component  
23 existed. With the local component gone, there is no  
24 incentive for industry to come sit and talk with us  
25 directly outside of any formal regulatory process.

1                   Let's talk about the IWC, the  
2 International Whaling Commission. The International  
3 Whaling Commission recently has shown a tendency to act  
4 proactively to protect endangered whale stocks when  
5 they perceive a threat. The IWC has no authority to  
6 restrict industrial operations in Alaska or offshore in  
7 federal waters in Alaska. But they can reduce the  
8 subsistence harvest quota if that's the only means they  
9 see of providing enhanced protection to a threatened or  
10 endangered whale stock. The IWC may see the expansion  
11 of leasing and development allowed by this amended  
12 coastal management program as an enhanced threat to the  
13 bowhead whale and may act accordingly. That is not  
14 insignificant, and it is not unreasonable to think  
15 that, and that ought to be analyzed in the EIS.

16                   There was a resolution put out by the  
17 IWC last year dealing with threats to a different whale  
18 stock. I believe it was the North Atlantic right whale  
19 stock. And they issued a very strongly worded  
20 resolution saying action must be taken to protect this  
21 stock independent of their -- independent of what was  
22 taking place in the area. They needed to act in the  
23 only way they can, which is to reduce harvest quotas  
24 and impose other restrictions.

25                   The loss of the bowhead whale

1 subsistence harvest quota, or a portion of the harvest  
2 quota would be a significant cultural impact to the  
3 people of the North Slope and the people of the Bering  
4 Straits that harvest those animals.

5                   Let's talk about coverage gaps. Marv  
6 talked about it a little bit. There is this idea that  
7 the things that have been removed in terms of  
8 protection from the coastal management program are  
9 merely redundant of other regulatory schemes. That is  
10 I think demonstrably not true. We've made this case  
11 many, many times, and I hope we'll make it again by the  
12 5th when we provide our written comments. But I think  
13 the EIS needs to analyze where the loss of protections  
14 in this amendment are not picked up, or could not be  
15 picked up by local or state regulatory processes or  
16 federal processes.

17                   There's this idea that the  
18 municipalities, those of us in the districts that are  
19 backed up by municipal governments, and some districts  
20 are not, that we can somehow fill those gaps with our  
21 Title 29 municipal planning authority, and that is not  
22 true. Specifically, on the North Slope, that is not  
23 true with respect to vast areas of federal land and the  
24 federal waters which are so important to the people of  
25 the North Slope. That needs to be analyzed. We've

1 requested of the state, now for I guess getting close  
2 to two years a sit down meeting specifically to talk  
3 about the OCS, the outer continental shelf, and exactly  
4 what we can do in terms of influencing activities that  
5 occur there, and we've never had that meeting. And, to  
6 be honest, I'm still not clear what we can do in that  
7 area. And we're not clear how a specific project, for  
8 instance, would work its way through this system as  
9 different than it would have worked its way through the  
10 system under the old ACMP.

11                   Subsistence, and in particular issues  
12 relating to access to subsistence resources. It  
13 doesn't really matter if there are enough animals out  
14 there if the people can't get to them, and in some of  
15 our North Slope communities that is already the case.  
16 In the community of Nuiqsut, for instance, which is  
17 virtually surrounded by oil and gas development, there  
18 are increasing access problems. The access enforceable  
19 policy of our current plan perhaps is the one we rely  
20 on most in sitting down with oil companies and dealing  
21 with issues relating to proposed activities, how we're  
22 going to maintain the opportunity for access to those  
23 resources.

24                   The EIS must take a look at the state's  
25 responses to the draft revised plans the districts have

1 submitted. In the North Slope plan, for instance, you  
2 will see that we've lost essentially all of our  
3 subsistence policies, including the access policy that  
4 we depended so heavily on. Those policies have been  
5 lost despite repeated assurances in the legislative  
6 process and in the public process and in the meetings  
7 directly between the districts and the state. The  
8 assurances were given that we would be able to craft  
9 meaningful enforceable policies on subsistence. And,  
10 again, when our local residents see that those policies  
11 are lost, stress results, and a sense of  
12 disenfranchisement and a sense of powerlessness  
13 results.

14                   The OCS I guess, I'll finish by again  
15 stressing the importance of the ability of the coastal  
16 management program, the ability of the local people  
17 through the coastal management program, to influence  
18 activities on the federal OCS is absolutely paramount  
19 to the North Slope, and was really the reason we got  
20 involved in the coastal management program to begin  
21 with, because we cannot extend our Title 29 authorities  
22 out to federal waters. Having a coastal management  
23 program that dealt with OCS activities and activities  
24 that occurred on the OCS allowed us some seat at the  
25 table. And again, it isn't this mythical table that

1 occurs outside of the North Slope. It meant that oil  
2 companies came and talked to us. The most successful  
3 relationships we have with industry are the ones where  
4 they come with coastal management program and our land  
5 management regulations in hand and sit down far in  
6 advance of when a project is permitted and talk about  
7 how they're going to meet the requirements of those  
8 policies. And again, it is not to say that the  
9 companies will not continue in good faith to do that,  
10 but there is no stick that requires them to do that any  
11 more.

12                   And we all know that in Alaska,  
13 individuals affect how big groups, big companies, big  
14 governments, big agencies behave. And while we may  
15 have good intention people sitting in the highest  
16 offices of industry now, we may not have as well  
17 intentioned people in the future. And it is to our  
18 great advantage to have embodied in a written body of  
19 law, coastal management in this case, requirements that  
20 people come and talk to us. And, again, our budget is  
21 going down drastically. Our ability to get out of  
22 Barrow, to get out of the North Slope communities,  
23 particularly the smaller communities, and have those  
24 conversations in the halls of power in Juneau and  
25 Anchorage and D.C. are shrinking. We need to have

1 people come talk to us on our terms with our program in  
2 hand. And it is pretty clear to us, if you look at the  
3 revised draft plan comments, that we have lost that  
4 ability.

5 We also hope to have written comments  
6 finalized by the 5th, and we'll get into some more  
7 detail on some of these points. And I thank you for  
8 your time today.

9 MS. OKASAKI: Thank you, Tom. Karol.

10 MS. KOLEHMAINEN: I'll try not to be  
11 nervous.

12 MS. OKASAKI: Try not to be nervous.

13 MS. KOLEHMAINEN: Yes.

14 MS. OKASAKI: We're friendly here.

15 MS. KOLEHMAINEN: Are you?

16 MS. OKASAKI: You bet.

17 MS. KOLEHMAINEN: That's true. Good  
18 morning, everybody. I'm Karol Kolehmainen,  
19 representing Aleutians West Coastal Resource Service  
20 Area, and I want to recognize my chairman is here,  
21 Frank Kelty from Unalaska.

22 I'm just going to read my formal  
23 comments that I have.

24 The following comments are provided  
25 regarding the subject EIS and are intended to be our

1 formal comments on the amended program. It is  
2 important to receive these comments in the context of  
3 what they represent. The Aleutians West Coastal  
4 Resource Service Area board speaks for the coastal  
5 program for the entire western Aleutian area from  
6 Unalaska Island west to Attu Island, an area roughly  
7 that is 20 to 60 miles in width, and roughly 1,000  
8 miles long. It is bounded by the Pacific Ocean to the  
9 south and the Bering Sea to the north, and it has a  
10 wealth of natural resources, including some of the  
11 richest fishing grounds in the state and the nation.

12               Like the geography, the communities of  
13 the region are also diverse. Unalaska, which has been  
14 the number 1 seafood processing port in the nation for  
15 many years, has a resident population of over 4,000  
16 people, and Nikolski, a tribal government, has 39.  
17 Both of these communities along with Atka, which is  
18 around 100 people population, contribute members to the  
19 AWCRSA board.

20               Please consider our comments.

21               Under the ACMP, communities address  
22 local coastal issues through our coastal district  
23 management plans. In 2003, the Alaska legislature  
24 passed H.B. 191 that substantially revised the state's  
25 coastal management program. We understand the program

1 changes were to accomplish the following: provide  
2 clear and concise guidance; provide greater uniformity  
3 in coastal management regulations throughout the state;  
4 relate to matters of local concern; and not duplicate  
5 state and federal legislation.

6 All the local coastal district plans  
7 are in the process of revision to meet the requirements  
8 of H.B. 191, and since July of last year our district  
9 has been working with the state to amend our program  
10 and craft acceptable policies. However, while we've  
11 been working diligently, and I assure you we have been  
12 working very diligently, at our program revision, we  
13 have found the process complicated by regulations that  
14 are not clear and concise, but rather inadequate,  
15 conflicting, and unclear. The program amendment and  
16 adopted regulations have eroded the previous ACMP  
17 framework into a spider web of complex and conflicting  
18 requirements, prohibitions, and definitions that have  
19 left local coastal districts hanging by a thread. I  
20 really like that analogy, it's like one of my  
21 favorites. we have several specific concerns regarding  
22 the changes to the ACMP.

23 The amended program involves a major  
24 overhaul of the statewide standards. Several of the  
25 standards are eliminated, removing them from statewide

1 purview, and a number of other standards are  
2 substantially weakened. Some specific standards, such  
3 as recreation and subsistence, only have substance  
4 through the local coastal district programs as there  
5 are no implementing authorities within the state. It's  
6 necessary for local coastal district programs to  
7 designate these areas to be able to subsequently  
8 develop policies that would apply within the designated  
9 boundaries. Since the revision and subsequent to the  
10 state review of our draft amended plan, we have been  
11 unable to craft an enforceable subsistence policy that  
12 is acceptable to the state.

13                   Additionally, and this is part of our  
14 hard work we've been doing on our plan, the AWCERSA has  
15 requested a legal interpretation from the state on  
16 whether we even have the regulatory authority to  
17 designate areas without borough status. We do not have  
18 Title 29 authority in the CRSA areas. The state has  
19 agreed that the question deserves an opinion from the  
20 attorney general. The results of this determination  
21 could have significant consequences for designations in  
22 vast areas of the coast located in the unorganized  
23 areas of the state. Prior to the revision of the  
24 coastal program, local policies had blanket  
25 applicability throughout the district and would be

1 considered during federal activities.

2                   The coastal program should allow  
3 districts to address upland areas important to wildlife  
4 and other coastal resources as it has in the past. The  
5 habitat standard defers greatly to water quality  
6 issues, which are DEC territory, but it does not  
7 provide a mechanism to address fishery resources that  
8 are important. While water quality is certainly one  
9 factor, it's not the only factor that should be  
10 considered.

11                   In another example, moving historic,  
12 prehistoric and archaeological resources to subject  
13 uses removes these areas from state purview and could  
14 prove detrimental to these irreplaceable resources. By  
15 way of explanation, we have a lot of archaeological  
16 sites in the -- that are identified within the Aleutian  
17 area, but many sites are likely to occur in certain  
18 geographical locations, but they have not been  
19 identified. You can imagine the complexity of trying  
20 to designate every archaeological site in the western  
21 Aleutians.

22                   Also, the mining and mineral processing  
23 standard is gone and not replaced with a subject use or  
24 any other planning mechanism. Mining activities can  
25 have significant effects on coastal uses and resources,

1 and this activity should continue to be addressed by  
2 the ACMP.

3                   Matters regulated by the Alaska  
4 Department of Environmental Conservation have been  
5 removed from the previous ACMP review process and there  
6 now exists a prohibition for districts to establish  
7 policies for air and water quality issues. It was  
8 suggested during the review of our amended plan that  
9 even advisory policies or any language at all relating  
10 to any sort of air, water quality, landfill, any kind  
11 of DEC-type issue be reworded to not contain any sort  
12 of phrasing that would be in a DEC regulation. AWCERSA  
13 is opposed to the fractioning out of DEC regulated  
14 matters and asserts that such an action will make it  
15 impossible to consider the full effects of a project  
16 and can potentially result in increased impacts to  
17 coastal resources. We have found the single-agency  
18 ACMP reviews coordinated by DEC to be problematic and  
19 essentially symbolic since passage of H.B. 191.

20                   Through the amended program, the  
21 state's created confusion an nearly impossible  
22 threshold for a local coastal district to raise a  
23 matter of local concern and write local policies.  
24 We've heard a lot of discussion about this. I'm going  
25 to give you guys some numbers. The AWCERSA began our

1 amendment process with 41 enforceable policies. And I  
2 want to add that those policies survived the four-year  
3 revision of our plan that we were in the process of  
4 completing when this amendment began. Last 16 -- or,  
5 last July 16 policies were recommended for deletion as  
6 part of our evaluation of our plan with the remainder  
7 requiring documentation, rewording, or incorporation of  
8 acceptable elements into other retained policies. With  
9 this goal in mind, the AWCRSA completed the policy  
10 revisions, and then we received regulatory  
11 interpretations where it became apparent that  
12 additional revisions would be required. the additional  
13 revisions were completed and the draft document  
14 submitted for review. As a result of comments received  
15 from the state, the draft document was further cleansed  
16 of five additional unacceptable policies. The AWCRSA  
17 amended coastal management plan now contains a total of  
18 14 enforceable policies from our original 41. And we  
19 actually have a couple of areas where we no longer have  
20 policies that survive, including habitat.

21           The local component is one of the  
22 primary mechanisms for implementing a state coastal  
23 program. State agencies have historically relied on  
24 local expertise in making consistency determinations  
25 and applicants depend on knowledgeable participants in

1 the review process. The elimination of our ability  
2 toto construct enforceable policies will preclude us  
3 from meaningful participation in the consistency review  
4 process. This can only result in a shortchanging of  
5 the applicant and the local citizens represented by our  
6 coastal district.

7                   And in my concluding comments, we do  
8 feel it's paramount to continue to retain a coastal  
9 management program that complies with federal law and  
10 meets the needs of the Alaskans represented by our  
11 local coastal district. The residents of the AWCRSA  
12 desire a working partnership with the state and federal  
13 agencies and meaningful participation in the  
14 consistency review process. While we do not agree that  
15 the current amended program provides clear and concise  
16 guidance, provides greater uniformity in coastal  
17 management regulations throughout the state, or  
18 adequately relates to our matters of local concern, we  
19 do desire a continued role in the coastal process, and  
20 that can only come through federal approval of an  
21 amended program.

22                   We appreciate the opportunity to  
23 comment and we trust your process will result in a  
24 successful conclusion that will ultimately be  
25 satisfactory to all parties. Thank you.

1 MS. OKASAKI: (Indiscernible, away from  
2 microphone)  
3 MS. KOLEHMAINEN: You're welcome.  
4 MS. OKASAKI: (Indiscernible, away from  
5 microphone) he didn't want to talk at this time. Would  
6 anyone else like to speak? Okay. Thank you. We will  
7 be here until 5:00 o'clock today, so.....  
8 UNIDENTIFIED VOICE: I have a question.  
9 MS. OKASAKI: Yes.  
10 UNIDENTIFIED VOICE: On the schedule of  
11 September for the EIS.....  
12 MS. OKASAKI: Uh-huh.  
13 UNIDENTIFIED VOICE:  
14 .....(indiscernible, away from microphone) is it public  
15 review (indiscernible, away from microphone)?  
16 MR. SMITH: Yes, (indiscernible, away  
17 from microphone).  
18 (Indiscernible, away from microphone  
19 and simultaneous speech)  
20 MS. OKASAKI: It just says.....  
21 UNIDENTIFIED VOICE: .....hold public  
22 hearings in Alaska (indiscernible) September.....  
23 MS. OKASAKI: Right.  
24 UNIDENTIFIED VOICE: Do you have dates  
25 for those or.....

1 MS. OKASAKI: No.

2 UNIDENTIFIED VOICE:

3 .....(indiscernible, away from microphone).

4 MS. OKASAKI: No. (indiscernible, away  
5 from microphone and simultaneous speech)

6 (Off record)

7 (On record)

8 MR. DeVALPINE: Hey, Randy. I just  
9 want to get comfortable here for a few minutes.

10 Kidding.

11 My name is Andrew DeValpine. I'm the  
12 director of the Bristol Bay Coastal Resource Service  
13 Area. It's based in Dillingham, Alaska, southwest of  
14 Anchorage at the top of Nushagak Bay. We have 492  
15 miles of coastline, but our district extends inland  
16 quite a bit. We have a few watersheds. Our one  
17 watershed on the east side of our district is larger  
18 than the state of Vermont. We have the Togiak National  
19 Wildlife Refuge to the west, and it's larger than  
20 Connecticut and Rhode Island combined. That does not  
21 even include the Wood-Titchik State Park which is the  
22 largest state park in the nation, 1.6 million acres.

23 These watersheds support economically  
24 valuable commercial and sport fisheries, salmon in  
25 particular. Regarding sport fisheries, people go for a

1 variety of other species. It's also especially  
2 valuable for subsistence use, not just for fish, but  
3 for moose, caribou, marine mammals like walrus, seals.  
4 Offshore are these rich feeding grounds for beluga and  
5 gray whales as well as sea lions, walrus and seals.

6 I thought in terms of scoping I wanted  
7 to just read from the beginning of House Bill 191.  
8 It's the bill that set all these changes in motion that  
9 we're addressing, and that you'll be addressing.

10 At the beginning it gives some reasons  
11 as to why the ACMP needed to be revised. It said, the  
12 Alaska Coastal Management Program is intended to  
13 function with a minimum of delay, and avoid regulatory  
14 confusion, costly litigation and uncertainty regarding  
15 the feasibility of new investment. It also said,  
16 there's a need to update and reform existing statewide  
17 standards of the ACMP so that they are clear and  
18 concise and provide needed predictability as to the  
19 applicability, scope and timing of the consistency  
20 review process under that program. Finally, it said,  
21 there's a need to update and reform the coastal  
22 management plans under the ACMP so that the local  
23 enforceable policies within those plans are clear and  
24 concise, provide greater uniformity in coastal  
25 management throughout the state, relate to matters of

1 local concern, and do not duplicate state and federal  
2 requirements.

3                   So I was rereading that, and I thought  
4 in terms of scoping it seems to me an EIS analysis of  
5 this ACMP amendment should take as its starting point  
6 these words and ground truth some of the claims and  
7 assertions, because I remember when it came out, a lot  
8 of time has past, but I read that, and at least for our  
9 area a lot of these things didn't apply. And a some of  
10 the grumbling I heard, you know, from around the  
11 districts in the state, people with longer history than  
12 me, I've only been in this about four years, also  
13 question, you know, the premises that the whole thing  
14 was based on.

15                   So I think a scoping of the potential  
16 effects brought about by the changes to the ACMP should  
17 begin with an assessment of these claims. I think they  
18 should be documented, what -- how the ACMP held up  
19 projects through regulatory confusion, using some of  
20 the words in the House Bill 191, document litigation  
21 that arose from issues brought up through the ACMP in  
22 particular, you know, not just permitting in general,  
23 document delays. And if you find projects that the  
24 ACMP specifically held up through confusion or whatnot,  
25 show how and why those projects were held up, show how

1 the new program as it's being proposed would have  
2 changed the picture, how it would have affected what  
3 ended up happening ultimately. And I would like to see  
4 a percentage of all the projects that went through the  
5 ACMP, percentages of what projects were actually held  
6 up because of ACMP confusion or Byzantine dealings or  
7 whatever.

8                   A couple of other words that come up in  
9 the House Bill 191 that I just read are predictability  
10 and confusion. I guess I would consider these perhaps  
11 issues with the old ACMP, and I think the EIS might see  
12 whether or assess or study, propose is if the amended  
13 program as it's described is less confusing, and hence  
14 is it more predictable. And I think a flow chart  
15 perhaps delineating the old consistency review process  
16 next to the new amended one might be instructive.

17                  Just a few other points I wanted to  
18 bring up, just not necessarily in a coherent order, but  
19 things I thought would be worthwhile to look into or  
20 assess. It talks about predictability. If the -- if  
21 this amended program were to prove to be more  
22 predictable, what does it mean for the developed  
23 environment? Is it possible to provide predictability  
24 and uniformity while at the same time relating to  
25 matters of local concern? That's one of the pegs, the

1 matters of local concern test, one of the pegs that we  
2 as local districts have to hang our policies on. To  
3 me, the old program, which was more decentralized, gave  
4 more emphasis to district policies and plans and local  
5 input, provided quite a bit more flexibility in terms  
6 of dealing with issues as they came up. So I'm just  
7 wondering, you know, if there's a built-in tension here  
8 that perhaps is problematic I guess. Anyway, it would  
9 be nice to see an assessment of that, or that  
10 investigated.

11                   Regarding centralization and  
12 decentralization, it seems the amended program does aim  
13 to centralize the ACMP. I think it would be worthwhile  
14 for the EIS to assess the reduced local role of local  
15 districts. And in doing so, in assessing this, will it  
16 negatively affect the environmental bottom line when  
17 decisions are made on development in a given district,  
18 but with diminished local considerations.

19                   As a side note to that, you know,  
20 there's this element in the regulations about allowing  
21 or disallowing uses, which seems to me I guess, just  
22 addressing the EIS, I think you should assess also the  
23 effects of what that means. Again, you know, it could  
24 put the districts, or it would put the districts I  
25 think in the uncomfortable position at times of not

1 having much wriggle room if in fact they wrote policies  
2 disallowing certain uses, where, in fact, if there was  
3 some more flexibility, a use might be allowable, but  
4 there's not -- there doesn't appear to be anyway a lot  
5 of give and take there.

6                   Also along these lines, the issue of  
7 environmental justice has been brought up. Again I  
8 bring this up in connection with the centralized versus  
9 decentralized program. That perhaps should be looked  
10 into, especially -- well, I mean, looking from our  
11 area, at our perspective, where we might have  
12 significant industrial development in the future in a  
13 region that is heavily dependent on subsistence  
14 resources and the watershed that provides that provides  
15 all the sustenance for those resources. How would that  
16 fit in.

17                   And then what I have noticed in my four  
18 years there, Fish and Game Habitat Department has used  
19 our policies quite a bit to back up I guess measures  
20 that they've put in place on projects, or they've cited  
21 them anyway. I think an EIS should compare the  
22 regulatory authorities of the Office of Habitat  
23 Management and Permitting as they are now called, and  
24 apparently, you know, they don't really have too much  
25 in the way of statutes backing them up, or regulations,

1 so I'd like to see, you know, what their authorities  
2 are actually, and compare those with the heft I guess  
3 that they had through local policies and state  
4 standards with what OHMP will have with the new  
5 program.

6 I think an EIS should analyze the  
7 limitations of subject uses as outlined in the  
8 regulations, if there are limitations. The same with  
9 habitat areas, and both in conjunction with  
10 definitions, as there have been new definitions to  
11 various aspects of the ACMP.

12 And I'd also like to call attention to  
13 one section of 11 AAC 12.300, when they talk about  
14 important habitats. There's a subpart ii, and I'd just  
15 like to quote that. It says, important habitats means  
16 habitats listed in (a)(1) through (8), blah-blah-blah,  
17 and that is shown by written scientific evidence to be  
18 significantly more productive than adjacent habitat.  
19 That's been the subject of some discussion in our  
20 workshops over these regulations. I'm not sure it's  
21 been satisfactorily settled, but it seems to me  
22 important for an EIS to address that as well.

23 And that's all I had. Thanks for the  
24 opportunity to comment.

25 MS. OKASAKI: Thank you.

1 MR. DeVALPINE: No applause?

2 MS. OKASAKI: Last chance. We still

3 will be here until 5:00. If you see anybody

4 (indiscernible, away from microphone).

5 (END OF PROCEEDINGS)

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UNITED STATES OF AMERICA)

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STATE OF ALASKA )

I, Joseph P. Kolasinski, Notary Public in and for  
the state of Alaska, and reporter for Computer Matrix  
Court Reporters, LLC, do hereby certify:

THAT the foregoing EIS Scoping Meeting on the  
Alaska Coastal Management Plan was electronically  
recorded by Computer Matrix Court Reporters, LLC on the  
27th day of July 2005, commencing at the Egan Center in  
Anchorage, Alaska;

That this hearing was recorded electronically and  
thereafter transcribed under my direction and reduced  
to print;

IN WITNESS WHEREOF, I have hereunto set my hand  
and affixed my seal this 10th day of August 2005.

\_\_\_\_\_  
Joseph P. Kolasinski  
Notary Public in and for Alaska  
My Commission Expires: 3/12/08